

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

IN RE:)	CASE NO: 17-40254-PWB
)	
JOHN FRANCIS DOWALGO, II)	CHAPTER 13
)	
Debtor.)	

MOTION TO RETAIN TAX REFUND

NOW COMES the Debtor, JOHN FRANCIS DOWALGO, II, in the above-styled case, by and through his attorney of record, Howard Slomka, Esq., and files this, his Motion to Retain Tax Refund, showing the court as follows:

1.

This court has jurisdiction in this matter pursuant to 28 U.S.C. §1334, 151, et seq. and 11 U.S.C. §101 et seq.

2.

Venue is appropriate pursuant to 28 U.S.C. §1409 and the matter is a core proceeding as described in 28 U.S.C. §157(b)(2)(A).

3.

The Debtor filed for relief in the above-styled Chapter 13 case on February 6, 2017 and Debtor's Chapter 13 Plan was confirmed on April 20, 2017.

4.

As a prerequisite to obtaining the confirmation of the Chapter 13 plan, and to meet the disposable income test of 11 U.S.C. §1325(b), the Debtors' Chapter 13 plan provided, *inter alia*, that "Any tax refund that is issued to the Debtor during the Applicable Commitment Period, greater than \$1,500.00, shall be paid into the Debtor's Chapter 13 case; any tax refund less than \$1,500 (or up to \$1,500 of any tax refund) may

be retained by the Debtor upon written request to the Trustee. Further, the Debtor instructs and authorizes the Internal Revenue Service or any other applicable tax agency to send any refund issued during the Applicable Commitment Period directly to the Debtor's Chapter 13 Trustee.”

5.

The Debtor is entitled to an income tax refund for the 2016 tax year in the approximate amount of \$4,951.00.

6.

The Debtor wishes to retain \$4,951.00 of his income tax refund for dental expenses for him and his children as set forth in the invoices attached hereto as **Exhibit A**.

7.

The Debtor respectfully requests that he be allowed to retain a total of \$4,951.00 from his 2016 income tax refund.

WHEREFORE, Debtor prays that this Motion be filed, read, and considered, that the Debtor be allowed to retain \$4, 951.00 of his 2016 income tax refund; and

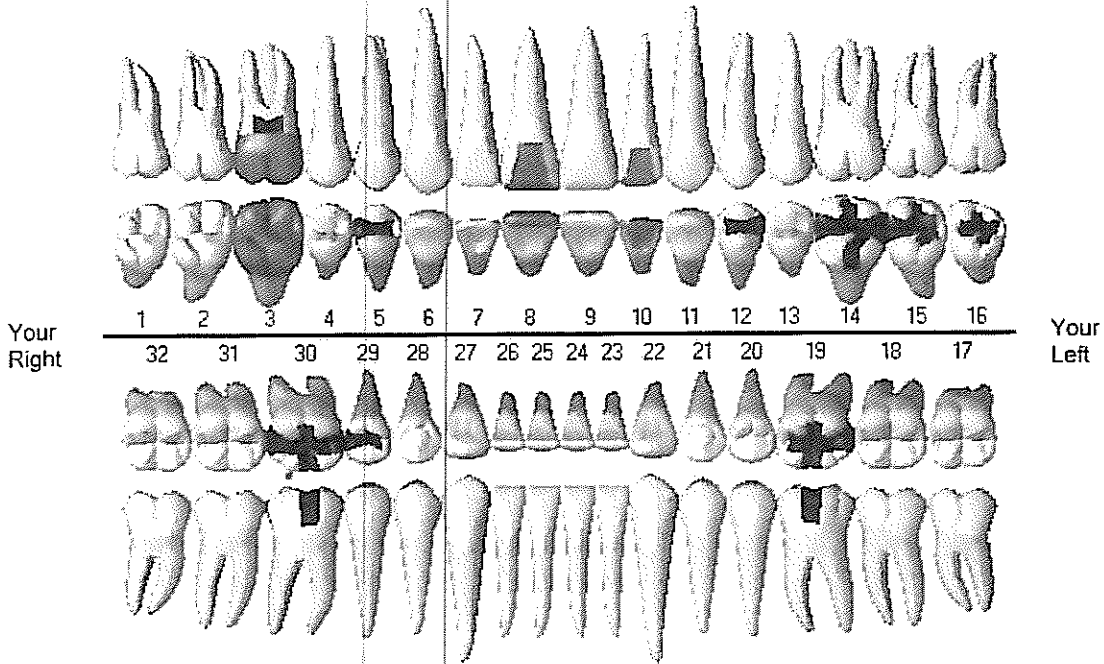
That this court grants such other and further relief as it may deem just and proper under the circumstances.

Respectfully submitted this 5th day of May, 2017.

_____/s/_____
Howard Slomka, Esq,
Georgia Bar # 652875
Slipakoff & Slomka, P.C.
Attorney for Debtor
1069 Spring Street, NW, 2nd Floor
Atlanta, GA 30309

EXHIBIT “A”

Active Treatment Plan
Seven Hills Dentistry
(678)257-7117
John Dowalgo, DOB 08/29/1979
04/05/2017



Existing Complete Referred Out Treatment Planned

Done	Priority	Tth	Surf	Code	Sub	Description	Fee	Pri Ins	Sec Ins	Discount	Pat
1st	Phase	UR	D4341			Gum Infection Therapy	291.00	60.90	0.00	154.00	76.10
1st	Phase	UL	D4341			Gum Infection Therapy	291.00	95.90	0.00	154.00	41.10
1st	Phase	LL	D4341			Gum Infection Therapy	291.00	95.90	0.00	154.00	41.10
1st	Phase	LR	D4341			Gum Infection Therapy	291.00	95.90	0.00	154.00	41.10
1st	Phase	UR	Arestin Rx			Minocycline Placement Fee	50.00	0.00	0.00	0.00	50.00
1st	Phase		NPERID EX			PERIDEX	15.00	0.00	0.00	0.00	15.00
1st	Phase	UL	Arestin Rx			Minocycline Placement Fee	50.00	0.00	0.00	0.00	50.00
1st	Phase	LL	Arestin Rx			Minocycline Placement Fee	50.00	0.00	0.00	0.00	50.00
1st	Phase	LR	Arestin Rx			Minocycline Placement Fee	50.00	0.00	0.00	0.00	50.00
1st	Phase		D9210			Oraqix Numbing Gel	60.00	0.00	0.00	0.00	60.00
						Subtotal	1439.00	348.60	0.00	616.00	474.40
						Total	1439.00	348.60	0.00	616.00	474.40

Family Insurance Benefits

	Primary	Secondary
Family Maximum		
Family Deductible	150.00	

Individual Insurance Benefits

A handwritten signature in black ink, likely of the dentist or a staff member, is written over the bottom right portion of the page.

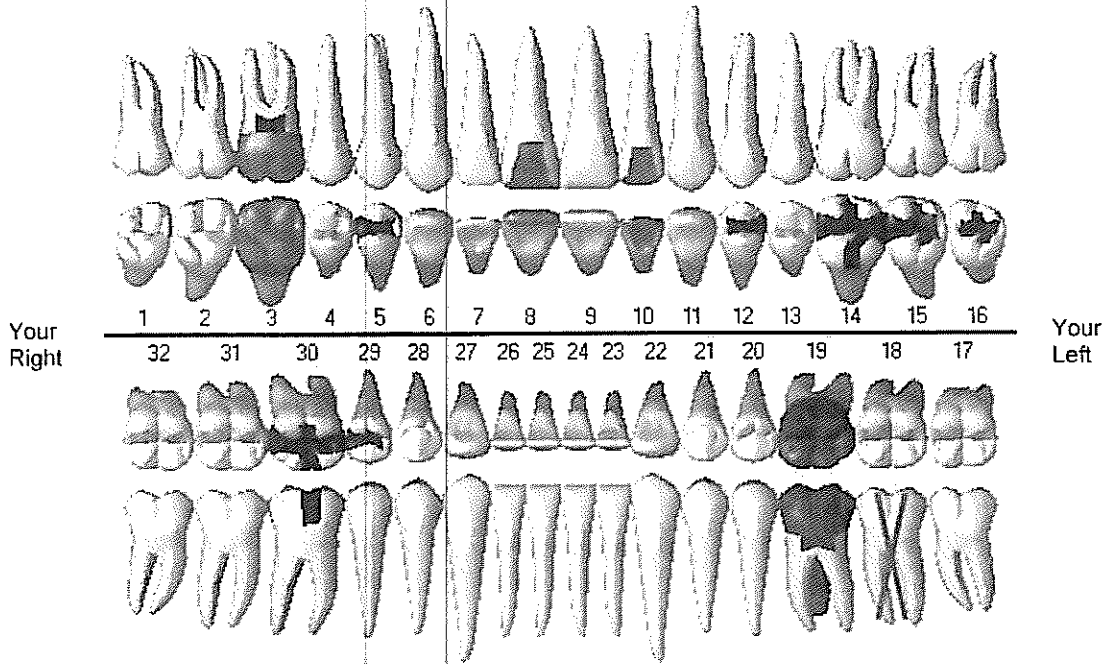
Active Treatment Plan

Seven Hills Dentistry

(678)257-7117

John Dowalgo, DOB 08/29/1979

04/19/2017



Existing Complete Referred Out Treatment Planned

Done	Priority	Tth	Surf	Code	Sub	Description	Fee	Pri Ins	Sec Ins	Discount	Pat
	2nd Phase			D9230		Nitrous Oxide	90.00	0.00	0.00	0.00	90.00
	2nd Phase	18		D7210		extraction, erupted tooth requiring removal of bone and/or sectioning of tooth, and including elevation of mucoperiosteal flap if indicated	317.00	100.10	0.00	174.00	42.90
	2nd Phase	18		D4263		bone replacement graft â€” retained natural tooth â€” first site in quadrant	350.00	0.00	0.00	0.00	350.00
	2nd Phase	19		D2950		core buildup, including any pins when required	300.00	52.40	0.00	169.00	78.60
	2nd Phase	19		D2740		crown - porcelain/ceramic substrate	1292.00	287.20	0.00	574.00	430.80
	2nd Phase	19		N4118		Crown Seat	0.00	0.00	0.00	0.00	0.00
	2nd Phase	19		D6010		surgical placement of implant body: endosteal implant	1900.00	0.00	0.00	726.00	1174.00
	2nd Phase	19		D6056		prefabricated abutment â€” includes modification and placement	350.00	0.00	0.00	37.00	313.00
	2nd Phase	19		D6065		implant supported porcelain/ceramic crown	1350.00	0.00	0.00	517.00	833.00
						Subtotal	5949.00	439.70	0.00	2197.00	3312.30
						Total	5949.00	439.70	0.00	2197.00	3312.30

Family Insurance Benefits

	Primary	Secondary
Family Maximum		
Family Deductible	150.00	

Individual Insurance Benefits

Reese Dowalgo

Provider

Jason E. Turner, DMD

:: TREATMENT CASE

Treatment Plan

DATE	VISIT	TH	SURF	CODE	PROV	DESCRIPTION	FEE	PAT	PRI INS	SEC INS
05/10/2016	1			D9220	DOC1	Deep sedat/gen anesth-1st 30m 30min	0.00	0.00	0.00	0.00
05/10/2016	1	K	O	D2391	DOC1	Resin 1 surf prim/perm	133.00	33.25	99.75	0.00
05/10/2016	1	L	O	D2391	DOC1	Resin 1 surf prim/perm	133.00	33.25	99.75	0.00
05/10/2016	1	T	O	D2391	DOC1	Resin 1 surf prim/perm	133.00	70.75	99.75	0.00

:: INSURANCE PROVIDER(S) ::

Primary
Cigna

Secondary

:: TOTALS ::

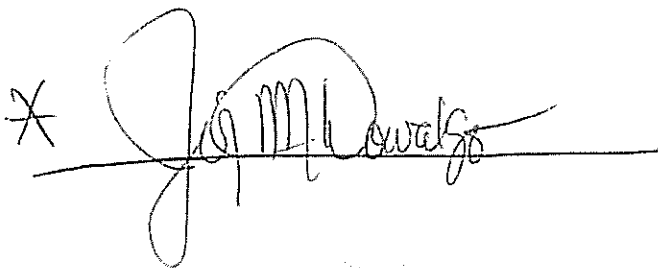
Fee	Pat	Pri Ins	Sec Ins
399.00	137.25	299.25	0.00

:: FINANCIAL SUMMARY ::

Treatment Plan Total 399.00

30 min GA CASE -
\$875.00 due @ appt.

\$154.70 due for dental procedures.
\$77.35 due to schedule.
\$77.35 due 2 wks prior to appt.

* 

turnerpediatricdentistry.com

2155 Cedarcrest Road
Acworth, GA 30101
PHONE: (770)439-9119

REPORT DATE:
05/10/2016



Michael Rossitch, D.D.S., M.S., PC

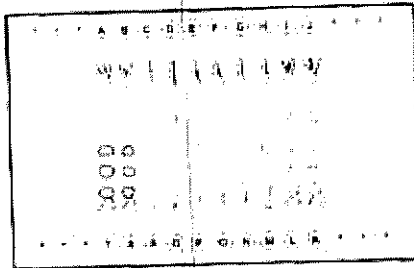
Name: Eliza Dowalga
 Birthdate: 06/22/2013
 Chart Number: 000139

TREATMENT CASE

DATE	VISIT	TH	SURF	CODE	PROV	DESCRIPTION	FEE	PAT	PRI INS
10/27/2016	1			D9230	MRO:	Analgesia	75.00	75.00	0.00
10/27/2016	1	S		D2930	MRO:	Prefab stain steel crn-primary	167.00	83.50	83.50
10/27/2016	1	S		D3220	MRO:	Therapeutic pulpotomy(exc rest)	116.00	23.20	92.80
10/27/2016	1	T		D2930	MRO:	Prefab stain steel crn-primary	167.00	108.50	58.50
10/27/2016	1	T		D3220	MRO:	Therapeutic pulpotomy(exc rest)	116.00	23.20	92.80
Visit 1 Totals:							641.00	313.40	327.60
10/27/2016	2			D9230	MRO:	Analgesia	75.00	75.00	0.00
10/27/2016	2	K	D	D2391	MRO:	Resin composite-1s. posterior	120.00	24.00	96.00
10/27/2016	2	L	D	D2391	MRO:	Resin composite-1s. posterior	120.00	24.00	96.00
Visit 2 Totals:							315.00	123.00	192.00

INSURANCE PROVIDER(S) ::
 Primary: Cogn
 Secondary:

TOTALS ::			
Fee	Pat	Pri Ins	
956.00	436.40	619.60	



FINANCIAL SUMMARY ::				
Estimated Deductible to be Applied				50.00
Estimated Insurance Payment				519.60
Estimated Patient's Portion				436.40
DENTAL INSURANCE BENEFITS ::				
	Primary	Secondary	Primary	Secondary
Annual Plan Benefits	2000.00	0.00	0.00	0.00
Paid Benefits YTD	0.00	0.00	0.00	0.00
Pending Insurance Est. YTD	115.00	0.00	115.00	0.00
Est. Benefits Remaining YTD	1885.00	0.00	0.00	0.00
Benefits Expire	12/31/2016	NA	12/31/2016	NA
Deductible Owed YTD	50.00	0.00	150.00	0.00
	Primary	Secondary	Primary	Secondary
	0.00	0.00	0.00	0.00
	0.00	0.00	0.00	0.00

Alternate Cases:

Case Notes: - Thu - Oct 27 2016 - The totals shown here are ESTIMATES ONLY and not a guarantee of insurance payment. In the event that my insurance carrier does not pay the estimated amount, I understand that I will be responsible for the difference.

SIGNATURE

DATE

Oct 27, 2016

The totals shown here are ESTIMATES ONLY and not a guarantee of insurance payment. In the event that my insurance carrier does not pay the estimated amount, I understand that I will be responsible for the difference.

SIGNATURE

1608 Legend Way Suite 201
 Manteca, CA 95854
 PHONE: (770) 420-4265

REPORT
 DATE
 10/27/2016

01

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

IN RE:)	CASE NO: 17-40254-PWB
)	
JOHN FRANCIS DOWALGO, II)	CHAPTER 13
)	
Debtor.)	

NOTICE OF HEARING

PLEASE TAKE NOTICE that JOHN FRANCIS DOWALGO, II has filed a Motion to Retain Tax Refund and related papers with the Court seeking an order to retain tax refund.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the Motion in Courtroom 342, 600 East First Street, Rome, Georgia 30161 at 10:00 A.M. on June 7, 2017.

Your rights may be affected by the Court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least three business days before the hearing. The address of the Clerk's Office is: Clerk, U.S. Bankruptcy Court, Room 339, Richard B. Russell Building, 600 East First Street, Rome, Georgia 30161. You must also mail a copy of your response to the undersigned at the address stated below.

May 5, 2017

_____/s/_____
Howard Slomka, Esq.
Counsel for Debtor
Georgia State Bar No. 652875
Slipakoff & Slomka, P.C.
1069 Spring Street, NW, 2nd Floor
Atlanta, GA 30309
(678)732-0001

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF GEORGIA
ROME DIVISION

IN RE:)	CASE NO: 17-40254-PWB
)	
JOHN FRANCIS DOWALGO, II)	CHAPTER 13
)	
Debtor.)	

CERTIFICATE OF SERVICE

I, Howard Slomka, certify that I am over the age of 18 and that on May 5, 2017, I served a copy of the documents listed below via first class mail U.S. Mail, with adequate postage prepaid on the following persons or entities at the address stated:

Documents Served:

1. Motion to Retain Tax Refund
2. Notice of Hearing on Motion to Retain Tax Refund

Service upon:

Mary Ida Townson (served via ECF)
Chapter 13 Trustee
Suite 2200
191 Peachtree Street, NE
Atlanta, GA 30303-1740

John Francis Dowalgo, II
339 Maple View
Dallas, GA 30157

SEE ATTACHED FOR ADDITIONAL CREDITORS

Dated: May 5, 2017

_____/s/_____
Howard Slomka, Esq.
Attorney for Debtor
Georgia Bar #652875
Slipakoff & Slomka, P.C.
1069 Spring Street, NW, 2nd Floor
Atlanta, GA 30309
(678)732-0001

Label Matrix for local noticing
113E-4
Case 17-40254-pwb
Northern District of Georgia
Rome
Fri May 5 13:37:33 EDT 2017

DITECH FINANCIAL LLC,
14841 Dallas Pkwy #300
Dallas, TX 75254-7883

Exeter Finance Corp.
c/o Ascension Capital Group
P.O. Box 165028
Irving, TX 75016-5028

Synchrony Bank
c/o PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541-1021

USAA Federal Savings Bank
c/o Weinstein & Riley, PS
2001 Western Avenue, Suite 400
Seattle, WA 98121-3132

American InfoSource LP as agent for
Verizon
PO Box 248838
Oklahoma City, OK 73124-8838

Bankamerica
4909 Savarese Cir
Tampa, FL 33634-2413

(p)CAPITAL ONE
PO BOX 30285
SALT LAKE CITY UT 84130-0285

Ditech Financial LLC fka Green Tree Servicin
P.O. Box 6154
Rapid City, South Dakota 57709-6154

(c)DITECH FINANCIAL LLC
332 MINNESOTA ST STE E610
SAINT PAUL MN 55101-1311

Exeter Finance Corp
Po Box 166097
Irving, TX 75016-6097

Exeter Finance Corp. Department
Ascension Capital Group
Account: XXXXX8942
P.O. Box 165028
Irving, TX 75016-5028

(p)GEORGIA DEPARTMENT OF REVENUE
COMPLIANCE DIVISION
ARCS BANKRUPTCY
1800 CENTURY BLVD NE SUITE 9100
ATLANTA GA 30345-3202

I C System Inc
Po Box 64378
Saint Paul, MN 55164-0378

Infinite Energy Inc
7001 SW 24th Ave
Gainesville, FL 32607-3704

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101-7346

Navy Federal Cr Union
820 Follin Ln Se
Vienna, VA 22180-4907

Navy Federal Credit Union
PO Box 3000
Merrifield, VA 22119-3000

PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541-1021

Santander Consumer Usa
Po Box 961245
Fort Worth, TX 76161-0244

Service Credit Union
3003 Lafayette Rd
Portsmouth, NH 03801-5904

Shapiro Pendergast & Hasty
211 Perimeter Center Pkwy, NE
Suite 300
Atlanta, GA 30346-1305

Stellar Recovery Inc
1327 Hwy 2 W
Kalispell, MT 59901-3413

Timberlands HOA
c/o Picket Realty LLC
P.O. Box 2177
Dallas, GA 30132-0037

Trojan Professional Se
4410 Cerritos Ave
Los Alamitos, CA 90720-2549

U. S. Attorney
600 Richard B. Russell Bldg.
75 Ted Turner Drive, SW
Atlanta GA 30303-3315

USAA SAVINGS BANK
C O WEINSTEIN & RILEY, PS
2001 WESTERN AVENUE, STE 400
SEATTLE, WA 98121-3132

Usaa Federal Savings B
Po Box 47504
San Antonio, TX 78265-7504

Usaa Savings Bank
10750 Mc Dermott
San Antonio, TX 78288-1600

Verizon Wireless
Po Box 49
Lakeland, FL 33802-0049

Howard P. Slomka
Slipakoff & Slomka, PC
Suite 200
1069 Spring Street, NW
Atlanta, GA 30309-3817

John Francis Dowalgo II
339 Maple View
Dallas, GA 30157-4694

Mary Ida Townson
Chapter 13 Trustee
Suite 2200
191 Peachtree Street, NE
Atlanta, GA 30303-1770

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g) (4).

Capital One Bank Usa N
15000 Capital One Dr
Richmond, VA 23238

Georgia Department of Revenue
1800 Century Blvd
Suite 17200
Atlanta, GA 30345

Addresses marked (c) above for the following entity/entities were corrected
as required by the USPS Locatable Address Conversion System (LACS).

Ditech Financial LLC
332 Minnesota St Ste 610
Saint Paul, MN 55101

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d) Synchrony Bank
c/o PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541-1021

End of Label Matrix	
Mailable recipients	32
Bypassed recipients	1
Total	33